

Remarks

This Response is in reply to the Final Office Action dated **April 11, 2008**, wherein the Office rejected claims 38 – 41 and 43 – 55 under 35 U.S.C. § 103.

The following comments are presented in the same order and with headings corresponding to the rejections set forth in the Office Action.

Claim Rejections—35 U.S.C. § 103

The Office rejected claims 38 – 41, 44, 46 – 49, and 51 – 55 under 35 U.S.C. § 103(a), alleging the same to be unpatentable over U.S. Patent No. 5,817,126 to Imran (hereafter “Imran”) in view of U.S. Patent No. 6,336,937 to Vonesh et al. (hereafter “Vonesh”). Applicants respectfully disagree.

Claim 38 and Those Claims Dependent Therefrom

A Braided Segment Is Not A Coil Segment

The purported combination of Imran and Vonesh fails to teach or suggest all the limitations of instant claim 38. Claim 38 recites, “A stent having a longitudinal axis comprising a plurality of segments, including at least one coil segment connected to at least one serpentine segment...” The Office asserted that FIG. 1 of Imran “discloses a stent having a coil segment (60) and serpentine segments (20 and 40).” Applicants respectfully assert that this is incorrect.

Segment 60 of Imran is a ***braided*** segment, as specified in the Imran specification (“Strands 62, 64 making up the ***braided*** intermediate segment 60...” (col. 4, lines 24 – 25)(Emphasis added)). Braided segments, however, are specifically called out in Applicants’ specification as being examples of acceptable ***non-coil*** segments that can be used in the inventive stent.

The first sentence of paragraph [0045] of the Applicants’ specification states, “As discussed above, the first and second end segments, and more generally, the ***non-coil*** segments, may be self-expandable or balloon expandable.” (Emphasis added). The last sentence of that paragraph states, “An example of a ***braided*** self-expanding segment which may be used in the

practice of the invention is shown at 400 in FIG. 4 and is described in greater detail in U.S. Pat. No. 5,061,275.” (paragraph [0045])(Emphasis added). The inclusion of the braided segment example in that paragraph of the specification indicates that it is considered to be a *non-coil* segment. In contrast, paragraph [0047] of the Applicants’ specification describes acceptable *coil* segments. None of the examples described are braided segments.

The Office is entitled to give the claims the broadest reasonable interpretation. However, “The Patent and Trademark Office (“PTO”) determines the scope of claims... upon giving claims their broadest reasonable construction ‘*in light of the specification as it would be interpreted by one of ordinary skill in the art.*’” MPEP § 2111, citing In re Am. Acad. of Sci. Tech. Ctr., 367 F.3d 1359, 1364[, 70 USPQ2d 1827] (Fed. Cir. 2004)(Emphasis added).

It would be clear to a person of ordinary skill in the art that segment 60 of Imran is a braided segment. And, it would also be clear to a person of ordinary skill in the art, *in light of Applicants’ specification*, that a braided segment is considered to be a type of *non-coil* segment.

Thus, to the extent that the first end segment 20 and second end segment 40 of Imran are *serpentine* segments (Applicants have not formed an opinion on this characterization presently), as was asserted by the Office, Imran discloses a stent having three non-coil segments, and no coil segments. Therefore, Imran does not teach or suggest “A stent having a longitudinal axis comprising a plurality of segments, including at least one coil segment connected to at least one serpentine segment...,” as recited in claim 38.

The Office alleges that Vonesh teaches that a stent may have self-expanding segments adjacent to balloon expandable segments. However, any alleged disclosure in the Vonesh reference of self-expanding segments combined with balloon expandable segments in a stent does nothing to address the failure of Imran to teach a stent having at least one coil segment connected to at least one serpentine segment, as in claim 38. Thus, claim 38 is non-obvious over the combination of Imran and Vonesh.

Claims 39 – 41, 44, and 54 – 55 depend from claim 38, making them non-obvious as well over the combination of Imran and Vonesh. Applicants request that the rejection be withdrawn and that claims 38 – 41, 44, and 54 – 55 be allowed.

Claim 46 and Those Claims Dependent Therefrom

A Braided Segment Is Not A Coil Segment

The purported combination of Imran and Vonesh fails to teach or suggest all the limitations of instant claim 46. For at least the reasons presented above with respect to claim 38, the purported combination of Imran and Vonesh fails to teach or suggest a stent comprising a coil segment and a serpentine segment, as in claim 46. As such, claim 46 is non-obvious.

Claims 47 – 49 and 51 – 53 depend from claim 46, making them non-obvious as well over the combination of Imran and Vonesh. Applicants request that the rejection be withdrawn and that claims 46 – 49 and 51 – 53 be allowed.

Claim Rejections—35 U.S.C. § 103

The Office rejected claims 43, 45, and 50 under 35 U.S.C. § 103(a), alleging the same to be unpatentable over Imran in view of Vonesh, and further in view of U.S. Patent No. 5,593,442 to Klein (hereafter “Klein”). Applicants respectfully disagree.

Regarding Claims 43 and 45

As argued above, the purported combination of Imran and Vonesh fails to teach or suggest all the limitations of claim 38, from which claims 43 and 45 depend. The addition of any alleged teaching in Klein of use spring steel in stents does nothing to address the failure of the Imran/Vonesh combination to teach or suggest all the elements of claim 38. To that end, claims 43 and 45 are non-obvious. Applicants request that the rejection be withdrawn and that claims 43 and 45 be allowed.

Regarding Claim 50

As argued above, the purported combination of Imran and Vonesh fails to teach or suggest all the limitations of claim 46, from which claim 50 depends. The addition of any alleged teaching in Klein of use spring steel in stents does nothing to address the failure of the Imran/Vonesh combination to teach or suggest all the elements of claim 46. To that end, claim 50

is non-obvious. Applicants request that the rejection be withdrawn and that claim 50 be allowed.

Conclusion

Based on the arguments presented above, Applicants assert that the Application, with pending claims 38 – 41 and 43 – 55, is in condition for allowance. Favorable consideration and early action to that effect are solicited earnestly.

Should the Examiner have any questions regarding the Amendment, the Examiner is invited to contact the Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

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